



[Billing Code 7709-01-P]

## **PENSION BENEFIT GUARANTY CORPORATION**

### **Submission of Information Collection for OMB Review; Comment Request; Qualified Domestic Relations Orders Submitted to PBGC**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of request for extension of OMB approval.

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**SUMMARY:** Pension Benefit Guaranty Corporation (“PBGC”) is requesting that the Office of Management and Budget (“OMB”) extend approval, under the Paperwork Reduction Act, of the collection of information in PBGC’s booklet *Qualified Domestic Relations Orders & PBGC* (OMB control number 1212-0054; expires August 31, 2012). This notice informs the public of PBGC's request and solicits public comment on the collection of information.

**DATES:** Comments should be submitted by [insert date 30 days after date of publication in the Federal Register].

**ADDRESSES:** Comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, via electronic mail at [OIRA\\_DOCKET@omb.eop.gov](mailto:OIRA_DOCKET@omb.eop.gov) or by fax to (202) 395-6974.

A copy of PBGC’s request may be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC at the above address or by visiting that office or calling (202) 326-4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll free at 1-(800) 877-8339 and ask to be connected to (202) 326-4040.) The request is also available at [www.reginfo.gov](http://www.reginfo.gov). PBGC’s current QDRO booklet is available on PBGC’s Web site at [www.pbgc.gov](http://www.pbgc.gov).

**FOR FURTHER INFORMATION CONTACT:** Jo Amato Burns, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW, Washington, DC 20005-4026, 202-326-4024. (TTY and TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

**SUPPLEMENTARY INFORMATION:** PBGC is requesting that OMB extend its approval of the guidance and model language and forms contained in the PBGC booklet, *Qualified Domestic Relations Orders & PBGC*.

A defined benefit pension plan that does not have enough money to pay benefits may be terminated if the employer responsible for the plan faces severe financial difficulty, such as bankruptcy, and is unable to maintain the plan. In such an event, PBGC becomes trustee of the plan and pays benefits, subject to legal limits, to plan participants and beneficiaries.

The benefits of a pension plan participant generally may not be assigned or alienated. However, Title I of ERISA provides an exception for domestic relations orders that relate to child support, alimony payments, or the marital property rights of an alternate payee (a spouse, former spouse, child, or other dependent of a plan participant). The exception applies only if the domestic relations order meets specific legal requirements that make it a qualified domestic relations order, or "QDRO."

ERISA provides that pension plans are required to comply with only those domestic relations orders which are QDROs, and that the decision as to whether a domestic relations order is a QDRO is made by the plan administrator. When PBGC is trustee of a plan, it reviews submitted domestic relations orders to determine whether the order is qualified before paying benefits to an alternate payee. The requirements for submitting a QDRO are established by statute.

To simplify the process, PBGC has included model QDROs and accompanying guidance in a booklet, *Qualified Domestic Relations Orders & PBGC*. The models and guidance assist parties by making it easier to comply with ERISA's QDRO requirements when drafting orders for plans trusted by PBGC. The booklet does not create any additional requirements.

PBGC is making the following changes to the QDRO booklet:

- For a participant who is already in pay status, PBGC will not suspend benefits upon receipt of a draft domestic relations order or any pleading intended to add PBGC as a party to a domestic relations action, including a request for joinder. PBGC will suspend benefits only upon receipt of an original signed domestic relations order or a certified or authenticated copy.
- For a participant who is not in pay status, but whose application is pending, PBGC will place a hold on putting the participant in pay status's application for benefits upon receipt of a draft order or any pleading intended to add PBGC as a party to a domestic relations action, including a request for joinder.
- If a separate interest order is silent as to what happens if an alternate payee dies before commencing benefits, PBGC will treat the separate interest as reverting to the participant, not being forfeited to PBGC.

PBGC is also making other simplifying and clarifying changes to the QDRO booklet.

The collection of information has been approved through August 31, 2012, by OMB under control number 1212-0054. PBGC is requesting that OMB extend approval of the collection of information for three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PBGC estimates that it will receive 1,361 domestic relations orders annually and that the average annual burden of this collection of information is 4,138 hours and \$870,400.

Issued in Washington, D.C., this 21st day of August 2012.

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**Catherine B. Klion, Manager**  
Regulatory and Policy Division  
Legislative and Regulatory Department

Date: 08/24/2012]

[FR Doc. 2012-20891 Filed 08/23/2012 at 8:45 am; Publication